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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,152	11/21/2003	Roger Linnecke	HSS-020AX	2116
207	7590	01/27/2004	EXAMINER	
WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP TEN POST OFFICE SQUARE BOSTON, MA 02109			BLACKMAN, ROCHELLE ANN J	
			ART UNIT	PAPER NUMBER
			2851	

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,152

Applicant(s)

LINNECKE, ROGER

Examiner

Rochelle Blackman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/859,970.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11/21/03 6) ☐ Other:

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on May 18, 2000. It is noted, however, that applicant has not filed a certified copy of the European application as required by 35 U.S.C. 119(b) in parent application, 09/859,970.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Appleman, U.S. Patent No. 5,839,704 in view of Robalino U.S. Patent No. 5,585,849, as set forth in the previous office action.

Appleman discloses "a portable stand"(see FIG. 2) having "an oblong basic body" and (see 10 of FIG. 2) and "an extendable extension body"(see 90 and 92 of FIGS. 3 and 4) of "tubular design"(see 10, 90, and 92 of FIGS. 2-4); "a first handle...mounted on said extension body"(see 60 of FIG. 2); "A connection plate"(see 20 of FIG. 2); "a slidable arrest carriage"(see 30 of FIG. 2); "a second handle"(see 64 of FIG. 2); "a connecting means"(see 34 and 36 of FIG. 2); "a locking screw"(see 36 of FIG. 2); "a locking

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sleeve"(see 94 of FIG. 2-4 and 6); and "the end of said first handle" including a "connecting means"(see 18 and 80 of FIG. 2 and col. 7, lines 20-21 – the "first handle"(60) can be attached directly to the "basic body"(10)).

Appleman does not appear to disclose a second handle with a "ball-and-socket joint/ball headed bearing means".

Robalino teaches that it is known to provide an "auxiliary handle/hand assembly"(see 12 of Figs. 1-2) with a "cushion"(see 26 of Figs. 3-4) for gripping, a "ball"(see 30 of FIGS. 3-4), a "spherical socket"(see 18 of FIGS. 3-4), and a "locking screw and lever"(see 22 and 34 of Figs. 3-4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the handle with the ball and socket of the Appleman reference for the handle of the Robalino reference to allow motion in multiple directions as taught by Appleman.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-10 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-10 of copending Application No. 09/859,970. This is a

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provisional double patenting rejection since the conflicting claims have not in fact been patented.

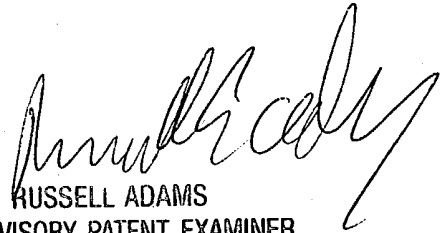
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rochelle Blackman whose telephone number is (703) 308-2879. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell Adams can be reached on (703) 308-2847. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

RB


RUSSELL ADAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800